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March 11, 2024

Colonel William G. Ross
Maine State Police
45 Commerce Drive
Augusta, Maine 04333

Dear Colonel Ross:

We have completed our investigation and legal review of the incident on September 13, 2023, involving the use of deadly force by Trooper Jeffrey Parks which resulted in the death of Shay McKenna, age 28, of Rumford.

Factual Summary

Shay McKenna had been charged with Manslaughter in the shooting death of his brother on December 31, 2022, and was released on bail. His conditions of release included notifying the court of any change in his address, prohibiting him from possessing firearms, and appearing at court as required. On September 11, 2023, Mr. McKenna failed to appear at his arraignment at the Oxford County Courthouse, and the Court issued a warrant for his arrest.¹

Investigation by the Rumford Police Department located Mr. McKenna trespassing at a make-shift camp on paper company land in Township C. The campsite consisted of a van and a 2012 Honda Fit registered to Mr. McKenna's mother. There was a paper target within 50 yards of the van that appeared to have bullet holes in it, along with soda bottle targets that also appeared to contain bullet holes. A game camera installed by the Warden Service in the vicinity of the camp relayed photographs of Mr. McKenna walking with a rifle slung in front of him. Based on the evidence that Mr. McKenna possessed a firearm in violation of his conditions of release, a second warrant for his arrest was issued on September 13, 2023.

Sgt. Christopher Farley of the Major Crimes Unit notified Sgt. Gregory Roy, the Commander of the Tactical Team, that the Tactical Team's assistance was needed to apprehend Mr. McKenna. On September 13, 2023, members of the team attended a briefing at the Andover Fire

¹ A decision was made not to arrest Mr. McKenna on his failure to appear at Court due to his attorney claiming he made an error notifying Mr. McKenna and intended to file a motion to remove the arrest warrant from the system.

Department, along with members of the Major Crimes Unit, the Crisis Negotiation Team, and the Warden Service. A plan was devised to deploy 10 officers from the Tactical Team on foot to set up a containment perimeter and, once the perimeter was established, the arrest team would approach the camp in an armored vehicle. Law enforcement was concerned that Mr. McKenna would flee into the woods which would result in a wooded manhunt.

Trooper Parks was deployed as part of the perimeter team. He walked up the west side of the access road in the direction of the camp along with other members of the tactical team. Trooper Parks and Corporal Andrew Hardy took a position behind a vehicle covered by a tarp facing the passenger side of the van. Detective Marcus Reny took a position in front of the van.

Once the perimeter was established, the armored vehicle containing the arrest team drove up the access road but had to stop at a wooden futon frame blocking access about 10 yards from the van. The team also deployed a drone to monitor movements in the area of the van. The armored vehicle activated its blue lights. A crisis negotiator addressed Mr. McKenna by name over the public address system, identified the officers as State Police, and advised Mr. McKenna repeatedly that he was under arrest and that he should exit the van with nothing in his hands. Mr. McKenna did not respond, but members of the perimeter team observed movement in the material covering the van's windows. The armored vehicle activated its sirens. There continued to be no response from Mr. McKenna.²

The armored vehicle backed up the access road away from the van, in order for the arrest team to install a ram on the front of the vehicle to move the wooden barricade out of the access road. Sgt. Roy continued to monitor the video transmitted by the drone. Sgt. Roy, viewing the drone video, and Trooper Parks, facing the passenger side of the van, both observed Mr. McKenna open the door and exit the van. Mr. McKenna was wearing body armor with rifle magazines on his front and was holding an AR-15 rifle slung in the front of his body with his right hand on the grip of the rifle and his left hand holding it at the low ready position. Trooper Parks observed Mr. McKenna scanning the wood line, appearing to hunt for people. Trooper Parks was aware that other members of the perimeter team were at risk, as they had no cover, causing him concern that Mr. McKenna would shoot an officer once he made visual contact.

Based on how Mr. McKenna was holding the rifle and that he appeared to be scanning the wood line for people, Trooper Parks fired one round at Mr. McKenna. Although he observed Mr. McKenna react, he saw him continue to remain standing. Trooper Parks fired a second round, causing Mr. McKenna to drop to the ground. When the officers approached Mr. McKenna, he still had the AR-15 rifle in his hand. His armored vest held a large knife, additional magazines, and military grade "chem lights" or glow sticks. He was declared dead at the scene. A post-mortem examination by the Office of Chief Medical Examiner determined the cause of death to be multiple gunshot wounds.

² The investigation later revealed that prior to the shooting, Mr. McKenna sent a text to a family member with a picture of the armored vehicle stopped at the futon blocking the road.

Discussion and Legal Analysis


The Office of the Attorney General has exclusive responsibility for the direction and control of any criminal investigation of a law enforcement officer who uses deadly force while acting in the performance of the officer's duties.³ The detectives who conduct these investigations are independent of any other law enforcement agency. The sole purpose of the investigation in this matter was to determine if a criminal prosecution was warranted or if self-defense or the defense of others was reasonably generated by the facts.⁴ Any such prosecution would require the State to disprove self-defense or the defense of others beyond a reasonable doubt. The investigation did not include an analysis of whether any personnel action might be warranted, whether the use of deadly force could have been averted, or whether there might be civil liability. Indeed, state law provides that the fact that conduct may be justifiable under the law does not abolish or impair any other available legal remedy.

Whether the use of force by a law enforcement officer is reasonable is based on the totality of the particular circumstances and judged from the perspective of a reasonable officer on the scene, allowing for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a given situation. The legal analysis requires careful attention to the facts and circumstances of each case, including the severity of the crime threatened or committed and whether the suspect poses an immediate threat to the safety of others.

Conclusion

When Trooper Parks shot Mr. McKenna, he reasonably believed that Mr. McKenna posed an imminent threat of serious bodily injury or death to the tactical team members in the wood line on the perimeter and himself, as well as to the arrest team working to attach the ram outside the armored vehicle. The State Police had repeatedly identified themselves over the public address system, had informed Mr. McKenna that he was under arrest, and directed him to surrender. Mr. McKenna refused to comply with the directives and instead emerged from the van with an AR-15 rifle in a position to shoot. Trooper Parks reasonably believed that Mr. McKenna's conduct placed him and the other tactical team members at risk of serious bodily injury or death. All the facts and circumstances point to the conclusion that Trooper Parks reasonably believed he was acting in self-defense of himself and others at the time he used deadly force.

Sincerely,


Aaron M. Frey
Attorney General

³ 5 M.R.S. § 200-A

⁴ Under Maine law, for a law enforcement officer to lawfully use deadly force in self-defense or the defense of others, two requirements must be met. First, the officer must reasonably believe that unlawful deadly force is imminently threatened against the officer or another person and, second, the officer must reasonably believe that the use of deadly force is necessary to defend the officer or other person. 17-A M.R.S. § 107(2)(A).